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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/609,302	06/27/2003	Richard Mottl	67230-88003	8046

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EXAMINER

HOEY, ALISSA L

ART UNIT	PAPER NUMBER
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3765

DATE MAILED: 03/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/609,302

Applicant(s)

MOTTL, RICHARD

Examiner

Alissa L. Hoey

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-7 and 9-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-7 and 9-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. This is in response to amendment submitted 11/19/04. Claims 1, 2, 5, 7, 9, 10 and 12 have been amended and claims 4, 8 and 13 have been cancelled. Claims 1-3, 5-7 and 9-12 are finally rejected below.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 5 is rejected under 35 U.S.C. 102(b) as being anticipated by Dupont et al. (US 5,410,758).

In regard to claim 5, Dupont teaches an aesthetically pleasing bib (10) comprising a front member (12) that substantially covers a wearer's front torso which defines an upper portion near the wearer's neck and a lower portion near the wearer's waist that covers the wearer's front torso and lap (figure 1). A shoulder covering member (44, 42, 14) connected to the front member (12) that drapes over the wearer's shoulders and upper back to cover the wearer's shoulders and upper back but not the wearer's lower back (figure 2). At least one pocket element (84) located along the bottom edge of the front member and a collar member (40) attached to the upper portion of the front member (12). At least one decorative member (20, 22) attached to

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the front member allowing the aesthetically bib to further resemble the appearance of a normal article of clothing.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dupont.

Dupont teaches an aesthetically pleasing bib as described above in claim 5. However, Dupont fails to teach the decorative members being a breast pocket located on the upper portion of the front member and a set of shirt buttons to function as another decorative member.

At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to have provided the decorative members being a breast pocket or a set of shirt buttons because Applicant has not disclosed that the decorative members being a breast pocket or a set of shirt buttons provides an advantage is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with the decorative members being a breast pocket, set of shirt buttons or pockets located along the front panel because as long as the bib resembles a normal article of clothing the decorative members can vary based upon the resembled

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garment. Therefore, it would have been an obvious matter of design choice to modify Dupont to obtain the invention as specified in claims 6 and 7.

6. Claims 1-3 and 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sutton (US 3,984,876) in view of Trombetti-Dickens (US 4,924,528).

In regard to claim 1, Sutton teaches an aesthetically pleasing bib (1) comprising a front member (8) that substantially covers the wearer's chest and a lower portion that covers the wearer's lap (figures 1 and 2). A shoulder covering member (4) connected to the front member (8) that substantially covers the wearer's shoulders and upper back by extending from the wearer's neck before terminating below the wearer's shoulder blades (figure 2). At least one pocket element (14) located along a bottom edge of the lower portion.

However, Sutton fails to teach a decorative pocket attached to the upper portion, a series of buttons attached to both the upper portion and the lower portion and a collar member located on the upper portion that surrounds the wearer's neck. The decorative pocket, series of buttons and collar member enable the bib to resemble a shirt.

Trombetti teaches a series of buttons (44) attached to both the upper portion and the lower portion and a collar member (42) located on the upper portion that surrounds the wearer's neck. The series of buttons (44) and collar member (42) enable the bib to resemble a shirt.

At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to have provided the decorative members being a breast pocket because Applicant has not disclosed that the decorative

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members being a breast pocket provides an advantage is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with the decorative members being a breast pocket because as long as the bib resembles a normal article of clothing the decorative members can vary based upon the resembled garment. Therefore, it would have been an obvious matter of design choice to modify Sutton to obtain the invention as specified in claim 1.

In regard to claim 2, Sutton teaches snap attachment means (17) connected to the shoulder covering member (4) to secure the bib around the wearer's neck.

In regard to claim 3, Sutton fails to teach the attachment means being hook and loop fasteners.

Trombetti teaches hook and loop fasteners as attachment means (20).

In regard to claim 9, Sutton teaches an aesthetically pleasing bib (1) comprising a front member (8) extending from a wearer's neck line to below the wearer's waist which defines an upper portion and a lower portion respectively that covers the wearer's front torso and covers the wearer's shoulders, lap and upper back (figures 1 and 2). At least one pocket element (14) located on the bottom edge of the front member (8). A fastening member to attach the bib around the neck of the wearer (17).

However Sutton fails to teach decorative members including a plurality of button members placed in spaced intervals and extending from the bottom portion to the upper portion of the front member, a decorative collar member and a breast pocket attached to the upper portion of the front member.

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Trombetti teaches Trombetti teaches a series of buttons (44) attached to both the upper portion and the lower portion and a collar member (42) located on the upper portion that surrounds the wearer's neck. The series of buttons (44) and collar member (42) enable the bib to resemble a shirt.

At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to have provided the decorative members being a breast pocket because Applicant has not disclosed that the decorative members being a breast pocket provides an advantage is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with the decorative members being a breast pocket because as long as the bib resembles a normal article of clothing the decorative members can vary based upon the resembled garment. Therefore, it would have been an obvious matter of design choice to modify Sutton to obtain the invention as specified in claim 9.

In regard to claim 10, Sutton teaches the front member being constructed from a cloth material (column 2, lines 31-33).

In regard to claim 11, Sutton teaches the fastening member being a snap fastener and fails to teach a hook and loop fastener.

Trombetti teaches a fastening member being a hook and loop fastener (20).

In regard to claim 12, Sutton teaches an aesthetically pleasing bib (1) that is capable of protecting clothing from becoming soiled while consuming meals. Providing an aesthetically pleasing bib comprising a front member (8) which substantially covers

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the wearer's front torso with an upper portion that covers the wearer's chest and a lower portion that covers the wearer's lap (figure 1 and 2). A shoulder covering member (4) connected to the front member (8) that substantially covers the wearer's shoulders and upper back by extending from the wearer's neck before terminating below the wearer's shoulder blades (figures 1 and 2). At least one pocket element (14) located along a bottom edge of the lower portion.

However Sutton fails to teach decorative members including a plurality of button members placed in spaced intervals and extending from the bottom portion to the upper portion of the front member, a decorative collar member and a breast pocket attached to the upper portion of the front member.

Trombetti teaches Trombetti teaches a series of buttons (44) attached to both the upper portion and the lower portion and a collar member (42) located on the upper portion that surrounds the wearer's neck. The series of buttons (44) and collar member (42) enable the bib to resemble a shirt.

At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to have provided the decorative members being a breast pocket because Applicant has not disclosed that the decorative members being a breast pocket provides an advantage is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with the decorative members being a breast pocket because as long as the bib resembles a normal article of clothing the decorative members can vary based upon the resembled garment. Therefore, it

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would have been an obvious matter of design choice to modify Sutton to obtain the invention as specified in claim 9.

It would have been obvious to have provided the bib of Sutton and Trombetti in the same method as detailed in claim 12 to keep a person's clothing protected from spills during the consumption of a meal.

It would have been obvious to have provided the aesthetically pleasing bib of Sutton with the decorative details of Trombetti, since the bib of Sutton provided with decorative details simulating a type of normal clothing would provide a bib with aesthetically appealing decorations so that the user and onlookers can view the bib as not just a protection article but a decorative fashion article as well.

Response to Arguments

7. Applicant's arguments with respect to claims 1-3, 5-7 and 9-12 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Clifford, Powell, Marshall, Jennings, Miller, Brown, Tanner, Buckley, Mitchell, McFadden, Blackshear, Connelly, Doherty, Hyatt and Schaller are all cited to show closely related garments.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

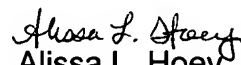
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alissa L. Hoey whose telephone number is (571) 272-4985. The examiner can normally be reached on M-F (8:00-5:30) Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on (571) 272-4983. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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